

Federal Highway Administration, DOT

§ 383.71

of a Federal, State, or local law or regulation pertaining to one of the following six offenses at a railroad-highway grade crossing must be disqualified for the period of time specified in paragraph (e)(2) of this section:

(i) For drivers who are not required to always stop, failing to slow down and check that the tracks are clear of an approaching train;

(ii) For drivers who are not required to always stop, failing to stop before reaching the crossing, if the tracks are not clear;

(iii) For drivers who are always required to stop, failing to stop before driving onto the crossing;

(iv) For all drivers, failing to have sufficient space to drive completely through the crossing without stopping;

(v) For all drivers, failing to obey a traffic control device or the directions of an enforcement official at the crossing;

(vi) For all drivers, failing to negotiate a crossing because of insufficient undercarriage clearance.

(2) *Duration of disqualification for railroad-highway grade crossing violation—*
(i) *First violation.* A driver must be disqualified for not less than 60 days if the driver is convicted of a first violation of a railroad-highway grade crossing violation.

(ii) *Second violation.* A driver must be disqualified for not less than 120 days if, during any three-year period, the driver is convicted of a second railroad-highway grade crossing violation in separate incidents.

(iii) *Third or subsequent violation.* A driver must be disqualified for not less than 1 year if, during any three-year period, the driver is convicted of a third or subsequent railroad-highway grade crossing violation in separate incidents.

(f) *Substantial compliance by States.* (1) Nothing in this rule shall be construed to require a State to apply its criminal or other sanctions for driving under the influence to a person found to have operated a commercial motor vehicle with an alcohol concentration of 0.04 percent, except licensing sanctions including suspension, revocation, or cancellation.

(2) A State that enacts and enforces through licensing sanctions the dis-

qualifications prescribed in §383.51(b) at the 0.04 alcohol concentration level and gives full faith and credit to the disqualification of commercial motor vehicle drivers by other States shall be deemed in substantial compliance with section 12009(a)(3) of the Commercial Motor Vehicle Safety Act of 1986.

[52 FR 20587, June 1, 1987, as amended at 53 FR 39050, Oct. 4, 1988; 54 FR 40788, Oct. 3, 1989; 55 FR 6727, Feb. 26, 1990; 57 FR 53295, Nov. 9, 1992; 59 FR 26028, May 18, 1994; 62 FR 37151, July 11, 1997; 64 FR 48111, Sept. 2, 1999]

EFFECTIVE DATE NOTE: At 64 FR 48111, Sept. 2, 1999, §383.51 was amended by redesignating paragraph (e) as (f) and by adding a new paragraph (e), effective Oct. 4, 1999.

§383.53 Penalties.

(a) *General rule.* Any person who violates the rules set forth in subparts B and C of this part may be subject to civil or criminal penalties as provided for in 49 U.S.C. 521(b).

(b) *Special penalties pertaining to violation of out-of-service orders—*(1) *Driver violations.* A driver who is convicted of violating an out-of-service order shall be subject to a civil penalty of not less than \$1,000 nor more than \$2,500, in addition to disqualification under §383.51(d).

(2) *Employer violations.* An employer who is convicted of a violation of §383.37(c) shall be subject to a civil penalty of not less than \$2,500 nor more than \$10,000.

(c) *Special penalties pertaining to railroad-highway grade crossing violations.* An employer who is convicted of a violation of §383.37(d) must be subject to a civil penalty of not more than \$10,000.

[59 FR 26028, May 18, 1994, as amended at 64 FR 48111, Sept. 2, 1999]

EFFECTIVE DATE NOTE: At 64 FR 48111, Sept. 2, 1999, §383.53 was amended by adding a new paragraph (c), effective Oct. 4, 1999.

Subpart E—Testing and Licensing Procedures

SOURCE: 53 FR 27649, July 21, 1988, unless otherwise noted.

§383.71 Driver application procedures.

(a) *Initial Commercial Driver's License.* Prior to obtaining a CDL, a person must meet the following requirements: